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551

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PART IV

Section I-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION.

No. L.D. 119—Legis. 3-51-5, dated Bangalore, 21st May 1951.

Ordered that the accompanying Constitution (First Amendment) Bill, 1951, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

BILL No. 48 OF 1951.

THE CONSTITUTION (FIRST AMENDMENT) BILL, 1951.

[AS INTRODUCED IN PARLIAMENT.]

A

BILL

to amend the Constitution of India.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Constitution (First Amendment) Act, 1951.

2. Amendment of article 15.—In clause (*3*) of article 15 of the Constitutionl after the word "children", the words "or for the educational, economic or socia, advancement of any backward class of citizens" shall be added.

3. Amendment of article 19 and validation of certian laws.—(*1*) In article 19 of the Constitution,—

(*a*) for clause (*2*), the following clause shall be substituted, and the said clause shall be deemed to have been originally enacted in the following form, namely :—

"(*2*) Nothing in sub-clause (*a*) of clause (*1*) shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, contempt of court, defamation or incitement to an offence.";

(*b*) in clause (*6*), for the words beginning with the words "nothing in the said sub-clause" and ending with the words "occupation, trade or business", the following shall be substituted, namely :—

"nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(*i*) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(*ii*) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

(*2*) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (*1*) of this section shall be deemed to be void, or ever to have become void, on the ground only that, being a law which

takes away or abridges the right conferred by sub-clause (*a*) of clause (*1*) of the said article, its operation was not saved by sub-clause (*2*) of that article as originally enacted, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, every such law shall continue in force until altered or repealed by a competent Legislature or other competent authority.

Explanation.—In this sub-section, the expression "law in force" has the same meaning as in clause (*1*) of article 13 of the Constitution.

4. Insertion of new article 31-A. After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely :—

"31-A. *Saving of laws providing for acquisition of estates, etc.*—(*1*) Notwithstanding anything in the foregoing provisions of this Part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part.

(*2*) In this article,—

(*a*) the expression, "estate" shall, in relation to any local area, have the same meaning as in the existing law relating to land tenures in force in that area ;

(*b*) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder or other intermediary and any rights or privileges in respect of land revenue."

5. Insertion of new article 31-B.—After article 31-A of the Constitution as inserted by section 4, the following article shall be inserted, namely :—

"31-B. *Validation of certain Acts.*—Without prejudice to the generality of the provisions contained in article 31-A, none of the Acts specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts shall continue in force until altered or repealed by a competent Legislature."

6. Amendment of article 85.—For article 85 of the Constitution, the following article shall be substituted, namely :—

"85. *Sessions of Parliament, prorogation and dissolution.*—(*1*) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(*2*) The President may from time to time—

(*a*) prorogue the House or either House ;

(*b*) dissolve the House of the People."

7. Amendment of article 87.—In article 87 of the Constitution,—

(*1*) in clause (*1*), for the words "every session" the words "the first session of each year" shall be substituted ;

(*2*) in clause (*2*), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

8. Amendment of article 174.—For article 174 of the Constitution, the following article shall be substituted, namely :—

"174. *Sessions of the State Legislature, prorogation and dissolution.*—(*1*) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(*2*) The Governor may from time to time—

(*a*) prorogue the House or either House ;

(*b*) dissolve the Legislative Assembly."

9. Amendment of article 176.—In article 176 of the Constitution,—

(*1*) in clause (*1*), for the words "every session" the words "the first session of each year" shall be substituted ;

(*2*) in clause (*2*), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

10. Amendment of article 341.—In clause (*1*) of article 341 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of a State," the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof", shall be subsituted.

11. Amendment of article 342.—In clause (*1*) of article 342 of the Constitution, for the words "may, after consulation with the Governor or Rajpramukh of a State", the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof", shall be substituted.

11. Amendment of article 372.—In sub-clause (*a*) of clause (*3*) of article 372 of the Constitution, for the words "two years" the words "three years" shall be substituted.

13. Amendment of article 376.—At the end of clause (*1*) of article 376 of the Constitution, the following shall be added, namely :—

"Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court or of the Supreme Court."

14. Addition of Ninth Schedule.—After the Eighth Schedule to the Constitution, the following Schedule shall be added, namely :—

"NINTH SCHEDULE

[*Article 31-B*]

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948.)
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).

5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Raiyatwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Raiyatwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951)."

STATEMENT OF OBJECTS AND REASONS

During the last fifteen months of the working of the Constitution, certain difficulties have been brought to light by judicial decisions and pronouncements specially in regard to the chapter on fundamental rights. The citizen's rights to freedom of speech and expression guaranteed by article 19(1)(a) has been held by some courts to be so comprehensive as not to render a person culpable even if he advocates murder and other crimes of violence. In other countries with written constitutions, freedom of speech and of the press is not regarded as debarring the State from punishing or preventing abuse of this freedom. The citizen's right to practise any profession or to carry on any occupation, trade or business conferred by article 19(1)(g) is subject to reasonable restrictions which the laws of the State may impose "in the interests of the general public". While the words cited are comprehensive enough to cover any scheme of nationalisation which the State may undertake, it is desirable to place the matter beyond doubt by a clarificatory addition to article 19(6). Another article in regard to which unanticipated difficulties have arisen is article 31. The validity of agrarian reform measures passed by the State Legislatures in the last three years has, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject-matter of dilatory litigation, as a result of which the implementation of these important measures, affecting large numbers of people, has been held up.

The main objects of this Bill are, accordingly, to amend article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular. The opportunity has been taken to propose a few minor amendments to other articles in order to remove difficulties that may arise.

It is laid down in article 46 as a directive principle of State policy that the State should promote with special care the educational and economic interests of the weaker sections of the people and protect them from social injustice. In order that any special provision that the State may make for the educational, economic or social advancement of any backward class of citizens may not be challenged on the ground of being discriminatory, it is proposed that article 15(3) should be suitably amplified. Certain amendments in respect of articles dealing with the convening and proroguing of the sessions of Parliament have been found necessary and are also incorporated in this Bill. So also a few minor amendments in respect of articles 341, 342, 372 and 376.

JAWAHARLAL NEHRU,

NEW DELHI;
The 10th May, 1951.

8514

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

Article 15(3).

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

Article 19.

19. *Protection of certain rights regarding freedom of speech, etc.*—(1) All citizens shall have the right—

(a) to freedom of speech and expression ;

* * * *

(g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to libel, slender, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State.

* * * *

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it prescribes, or empowers any authority to prescribe, or prevent the State from making any law prescribing or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business.

Article 85

85. *Sessions of Parliament, prorogation and dissolution.*—(1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of clause (1), the President may, from time to time—

(a) summon the Houses or either House to meet at such time and place as he thinks fit;
(b) prorogue the Houses ;
(c) dissolve the House of the People.

Article 87

87. *Special address by the President at the commencement of every session.*—(1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House.

Article 174

174. *Sessions of the State Legislature, prorogation and dissolution.*—(*1*) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session.

(*2*) Subject to the provisions of clause (*1*), the Governor may from time to time—

(*a*) summon the House or either House to meet at such time and place as he thinks fit;

(*b*) prorogue the House or Houses;

(*c*) dissolve the Legislative Assembly.

Article 176

176. *Special address by the Governor at the commencement of every session.*—(*1*) At the commencement of every session, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(*2*) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for the discussion of the matters referred to in such address and for the precedence of such dicussion over other business of the House.

Article 341 (1)

341. *Scheduled Castes.*—(*1*) The President may, after consultation with the Governor or Rajapramukh of a State, by public notification, specify the castes, races or tribes or parts for groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State.

Article 342 (1)

342. *Scheduled Tribes* (*1*) The President may, after consultation with the Governor or Rajapramukh of a State, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this constitution be deemed to be Scheduled Tribes in relation to that State.

Article 372 (3)(a)

(*3*) Nothing in clause (*2*) shall be deemed—

(*a*) to empower the President to make any adaptation or modification of any law after the expiration of two years from the commencement of this Constitution; or

Article 376(1)

376. *Provisions as to Judges of High Courts.*—(*1*) Notwithstanding anything [illegible] clause (*2*) of article 217, the Judges of a High Court in any Province holding [illegible] immediately before the commencement of this constitution shall unless they [illegible] elected otherwise, become on such commencement the Judges of the High [illegible] in the corresponding State, and shall thereupon be entitled to such salaries [illegible] owances and to such rights in respect of leave of absence and pension as are [illegible] ed for under article 221 in respect of the Judges of such High Court.

[illegible] nted by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.